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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

Writ Petition No.4502 of 2006

PETITIONER	:	Kabir Jagu Ashram, through its Sarvarakar, Shri Anukarandas Sahib, Village Senchua, District Dhamtari Chhattisgarh Represented by Power of Attorney Holder Shri Ishuram, aged about 64 years, S/o Shri Bahorikram Sahu, R/o Village Junwani, District Dhamtari, Chhattisgarh
	Vs.	
RESPONDENTS	1.	State of Chhattisgarh, through Collector, Dhamtari, Chhattisgarh
	2.	Board of Revenue, Chhattisgarh, Circuit Court, Raipur, through its Secretary, Board of Revenue, Bilaspur, Chhattisgarh
	3.	Sub Divisional Officer, Dhamtari, District Dhamtari, Chhattisgarh
	4.	Tehsildar, Dhamtari, District Dhamtari Chhattisgarh
	5.	Tulsiram, S/o Shri Sakharam Gond, resident of Village Senchua, Tehsil and District Dhamtari, Chhattisgarh

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Present : Shri Ranbir Singh Marhas, learned counsel for the petitioner.
Shri Sanjay S. Agrawal, learned G.A. for respondents 1 to 4.

ORAL ORDER

(Passed on 24th August, 2006)

Having heard learned counsel for the petitioner for considerable time, on a short ground, I am not inclined to entertain this writ petition. The admitted position is that the petitioner who is the purchaser of the subject land before purchasing the subject land from an aboriginal tribal did not secure permission of the District Collector as envisaged under Clause (ii) of sub-Section (6) of Section 165 of the Chhattisgarh Land Revenue Code, 1959 (for short 'The Code'). Sub-Section (6) reads as follows:

> "(6) Notwithstanding anything contained in sub-section (1) the right of Bhumiswami belonging to a tribe

which has been declared to be an aboriginal tribe by the State Government by a notification in that behalf, for the whole or part of the area to which this Code applies shall-

(i) in such areas as are predominately inhabited by aboriginal tribes and from such date as the State Government may, by notification, specified, not be transferred nor it shall be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe in the are specified in the notification;

(ii) in areas other than those specified in the notification under clause (i), not to be transferred or be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe without the permission of a Revenue Officer not below the rank of Collector, given for reasons to be recorded in writing."

The language employed in Clause (ii) is plain, precise, unambiguous and mandatory in nature and it is intended to protect the rights of the aboriginals. Therefore, the provisions of Clause (II) of sub-Section (6) of Section 165 of the Code should be construed strictly and in a way to achieve and advance the legislative objective.

(2) In that view of the matter, the order of the Board of Revenue holding that the sale transaction is illegal and directing restoration of land to the 5th respondent is justified and legal. The writ petition is, therefore, dismissed. No costs.

Sd/-
Chief Justice

Brajesh